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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/591,574

07/02/2007

Isao Mori

KOIKE-01700

6237

28960 7590 07/08/2009  
HAVERSTOCK & OWENS LLP  
162 N WOLFE ROAD  
SUNNYVALE, CA 94086

EXAMINER

REICHLE, KARIN M

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

07/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/591,574	<b>Applicant(s)</b> MORI ET AL.	
	<b>Examiner</b> Karin M. Reichle	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7-2-07.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8-31-06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. It is noted that the preliminary amendment filed 8-31-06, page 4, line 6 thereof should be avoided in any future amendments, i.e. new claims should be presented in the complete listing of claims in sequence only with a parenthetical “(New)”.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

### ***Specification***

#### ***Drawings***

2. The drawings are objected to because Figure 3 is inconsistent with the description thereof on page 6 and, e.g., page 9, second full paragraph, i.e. shows also topsheet and backsheet. This also applies to Figure 4 and the description thereof, i.e. shows more than just cuffs. Figures 1-2 and the textual description of the left thigh surrounding areas, e.g., page 7, lines 2 et seq, are inconsistent, i.e. are they 6L or 5L? In Figure 2, numerals 7 and 1 should not be underlined. In Figure 1, the lines from 10B and 10W as well as the elements themselves should be dashed to denote underlying structure (note line from 12 is already dashed). In Figure 4, the cuff is not “sandwiched” as described on page 9, lines 16-17. In Figure 4, the denotation “5, (6)” should be

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avoided, i.e. either 5 or 6 not both. Corrected drawing sheets in compliance with 37 CFR

1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed in claim 4, see discussion *infra*, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure

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must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Description*

4. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: page 2, line 4, page 3, lines 1-3, and 15-16 and page 7, lines 2-3.

5. The abstract of the disclosure is objected to because the abstract is too long, i.e. more than 150 words in length. Also language which can be inferred, i.e. "Disclosed is an" (line 1), should be avoided. Correction is required. See MPEP § 608.01(b).

6. The disclosure is objected to because of the following informalities: 1) The application does not include the sections, each preceded by a subtitle, in the order as set forth in MPEP 608.01(a) and 37 CFR 1.77(b). For example, see the paragraph at page 1, lines 8-10 and 37 CFR 1.77(b)(2). 2) The description of Figures 3-4 on page 6 are not consistent with what is

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shown therein, see discussion supra. The textual description, e.g., on page 7, of the left thigh surrounding areas is inconsistent with itself and Figures 1-2, i.e. are they 6L or 5L? The description of the main portion on page 16, third and fourth to the last lines and that in claim 4 is not consistent, i.e. in the description of the main part has a planar surface which is embossed whereas in the claim the main part is embossed and planar, see also discussion infra. The description of the invention in claims 5-6 and that on page 13, first full paragraph are inconsistent, i.e. note page 13 describes the part as having the dimensions whereas the claim describes the polymer as having such dimensions.

Appropriate correction is required.

### ***Claim Objections***

7. Claim 8 is objected to because of the following informalities: Claim 8, lines 4-5 are redundant. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

8. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 a positive structural antecedent basis for “the major surfaces”, line 3, and “said crepe paper sheet wrapped around one of the major surfaces of...part”, lines 5-6, should be set forth. This also applies to similar language in claims 7-8. Claim 4 is inconsistent, as best understood, i.e. substantially planar but embossed? See discussion supra and infra.

***Claim Language Interpretation***

9. No claim terminology has been explicitly defined. Therefore, such terminology will be interpreted in light of its usual, e.g., dictionary definition. Therefore, in claim 1, the terminology “highly absorbent” is considered relative absent claiming of specific dimensions. Also the terminology “bonded” includes direct or indirect bonding. The claims are product by process claims, see, e.g., claim 1, lines 4 et seq and MPEP 2113. Therefore, and due to the lack of clarity discussed in paragraph 8, the end product of claim 1 is interpreted as an absorbent assembly comprising a main absorbent part composed of “highly absorbent” polymer and absorbent fibers, a crepe paper sheet wrapped around the main absorbent part, hot melt bonds at least indirectly bonding surfaces of the main absorbent part to the crepe paper sheet and a liquid permeable sheet arranged on a portion of the crepe paper sheet wrapping the main absorbent part, the weight ratio of the “highly absorbent” polymer to the total weight of the “highly absorbent polymer” and absorbent fibers of the main absorbent part being at least 40% and the liquid permeable sheet including polyethylene terephthalate. This also applies to similar language of claims 7-8. Claims 3 and 9 are interpreted as requiring bonds of a delayed crystallized adhesive at least indirectly bonding a surface of the main absorbent part and the crepe paper sheet and bonds of adhesive at least indirectly bonding another opposite surface and the crepe paper sheet which latter adhesive has the capability, property or function of being water proof. Claim 4 due to the lack of clarity discussed supra is interpreted as requiring at least a planar portion and at least an embossment. With regard to claims 5-6, note paragraph 6 supra.

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***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1 and 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashton et al '678 in view of Lee et al '813.

Claim 1: See Claim Language Interpretation section supra, hereinafter also referred to as CLI, and '678 at the Figures, esp. Figure 3, and col. 2, lines 42-57, col. 3, line 58-col. 4, line 9 (esp. 60-62, "and/or"), col. 4, lines 27-46, col. 31, line 26-col. 32, line 14 (Note "briefs", "pants"), col. 4, line 47-col. 7, line 42, col. 28, lines 53-60, col. 20, line 34-col. 22, line 17, col. 9, lines 49-63 and thereby, by incorporation, 4,610,678 and '402, see discussion infra, col. 12, lines 11-37 and thereby, by incorporation, 4,610,678 and '068, see discussion infra, col. 13, lines 11-46 and thereby, by incorporation, '402 and '445, see discussion infra, col. 15, lines 24-31 and 35-36, col. 17, lines 15-27, col. 19, lines 44-59, col. 20, line 26-col. 22, line 17 again, col. 25, lines 17-35, col. 28, lines 30 et seq and col. 32, line 29, 4,610,678 at, e.g., col. 5, line 34-col. 6, line 29, col. 8, lines 66-67 and Example 1, '068 at, e.g., Figures 4-5, '445 at, e.g., col. 7, lines 40-45 and col. 14, lines 39-57, esp. 51-52 and 57-58, '402 at, e.g., col. 8, lines 3-17 and col. 10, first full paragraph and thereby, by incorporation, '968 at Figure 2 and col. 3, line 23-col. 4, line 41, i.e. '678 teaches an absorbent assembly 28 comprising a main absorbent part composed of "highly absorbent" polymer and absorbent fibers, e.g. 190, a paper sheet wrapped around the main absorbent part, see, e.g., col. 17, lines 15-27 or 170, hot melt bonds at least indirectly



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bonding surfaces of the main absorbent part to the paper sheet, see Figure 3, col. 6, line 39-col. 7, line 41, col. 28, lines 53-67, col. 20, line 34-col. 22, line 17, col. 28, lines 30-52 and paragraph bridging cols. 3-4, and also the discussion of claim 3 *infra*, and a liquid permeable sheet, e.g. 150, arranged on a portion of the paper sheet wrapping the main absorbent part, the weight ratio of the “highly absorbent” polymer to the total weight of the “highly absorbent polymer” and absorbent fibers of the main absorbent part being at least 40%, see, e.g., col. 12, lines 11-33, and the liquid permeable sheet including polyethylene terephthalate, see, e.g., col. 13, lines 44-45 and thereby, cited portions of ‘445. Therefore, 678 teaches all the claimed structure except for the paper sheet being crepe paper. However, see portions cited *supra*, i.e. ‘678 teaches an envelope of wet strength, fluid pervious, tissue paper. However also see ‘813 at col. 1, lines 54-57, to make the wet strength fluid pervious tissue paper envelope of ‘678 a wet strength fluid pervious crepe tissue paper as taught by ‘813 instead would be obvious, *In re Siebentritt*, 54 CCPA 1083, i.e. two equivalents are interchangeable for the desired function, express suggestion of desirability not needed to render such substitution obvious, i.e. here the equivalents are interchangeable for the desired function of forming a wet strength, fluid pervious, tissue paper envelope for an absorbent layer/pad.

Claim 3: See ‘678 at, e.g., col. 9, lines 49-52 and thereby, by incorporation, ‘402 at col. 10, lines 19-24, and the portions of ‘968 cited in the discussion of claim 1 *supra*, and ‘678 at col. 28, lines 30 et seq, col. 20, line 34-col. 22, line 15 and col. 28, lines 30-52 and col. 25, lines 17-35, e.g. element 170 is at least bonded to 190 by 94 on one major surface of 190 and bonded, at least indirectly by 120 to the opposite major surface. Note the tissue is not required to wrap both surfaces or be directly bonded to such surfaces and such adhesive can be a high wet strength, hot

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melt adhesive having a relatively slow crystallization rate, i.e. a delayed crystallization adhesive, see, e.g. portions of 678 cited supra, esp. col. 22, first full paragraph and the paragraph bridging cols 3-4, and a water-proofing adhesive, i.e. non-soluble when wet, see col. 22, first full paragraph again (note that the claim only requires such adhesive be water-proofing, i.e. does not claim the extent of such adhesive relative to the part and sheet). Note also col. 25, lines 17-35.

Claim 4: The surface of said main absorbent part is substantially planar and has been processed with embossing, see CLI and '678 at, e.g., col. 15, lines 24-31 and thereby, by incorporation, portions of '068 cited, i.e. Figures 4-5, i.e. at least a planar portion and at least an embossment.

Claims 5-6: As best understood, see discussion in paragraph 6 supra and the portions cited of 4,610,678 and '402, i.e. the weight per unit area and the density are not less than 300 gsm and not less than 150 kg/m<sup>3</sup>, respectively, and the overall thickness is not more than 2 mm or the overall thickness of the main absorbent part is 1.0 to 1.8 mm and the density is not less than 300 kg/m<sup>3</sup> with "sufficient specificity", see MPEP 2131.03. Note also MPEP 2144.05.

Claims 7-8: See '678 at the Figures and col. 4, lines 40-41, col. 31, lines 32-38 and col. 32, lines 2-4 and the discussion of claim 1, '678 teaches lateral side edges of a front body area and a back body area unified together to form a trunk opening area and left and right thigh opening areas, with an absorbent assembly as discussed with regard to claim 1 being formed at a center area and being arranged between a liquid permeable top sheet and a liquid impermeable back sheet.

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12. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashton et al '678 and Lee et al '813 as applied to claim 1 above, and further in view of Oji, JP '859, and Collier IV et al '758.

Claim 2 requires the liquid permeable sheet also include, in part, hollow polyethylene terephthalate. See the discussion of claim 1 supra, esp. the portions of '445 cited. Therefore while '678 teaches the acquisition/distribution sheet at least in part of polyethylene terephthalate it does not explicitly teach such being, in part, hollow. However, see paragraphs 30-33 and Figures of '859, especially paragraph 31, and '758 at col. 2, line 9 and col. 14, lines 61-67. Therefore, to make the acquisition/distribution sheet including polyethylene terephthalate of '768 such a sheet which also includes in part hollow polyethylene terephthalate as taught by '859 and '758 would be obvious, *In re Siebentritt*, 54 CCPA 1083, i.e. two equivalents are interchangeable for the desired function, express suggestion of desirability not needed to render such substitution obvious, i.e. here the equivalents are interchangeable for the desired function of forming an acquisition/distribution sheet of polyethylene terephthalate.

Claim 9: See discussion of claim 3 supra.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited but not applied also teaches claimed and/or disclosed features of the instant invention.

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936.

The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karin M. Reichle/  
Primary Examiner, Art Unit 3761

July 5, 2009